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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1945

No. 11,387

FRED REYNOLDS and
JOHN PERCY REYNOLDS,

Petitioners,

—vs—

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT

TO THE HONORABLE THE SUPREME COURT OF THE UNITED STATES:

Petitioners Fred Reynolds and John Percy Reynolds submit herewith their petition praying that a writ of certiorari issue to review the judgment of the United States Circuit Court of Appeals for the Fifth Circuit entered December 21, 1945, (R95-98), affirming a judgment of conviction of petitioners in the District Court of the United States for the Southern District of Alabama, (R11) (R13), and in support thereof respectfully show unto this Honorable Court as follows:

STATEMENT OF MATTER INVOLVED:

I.

Petitioners were convicted under each of five counts of an indictment charging them with violations of Sections 415 and 418 (a) of Title 18 of the United States Code, and each was sentenced to pay a fine of $1,000.00, and to imprisonment for one year and one day in a penal institution to be designated by the Attorney General, (R.11-13). Said counts charge a violation as follows:

1. Transporting and causing to be transported in interstate commerce from Brewton, Escambia County, Alabama, to Flomaton in the State of Florida, 92 slot machines of the value of $13,800.00, knowing the same to have been stolen. (R2).

2. Transporting and causing to be transported in interstate commerce from Flomaton in the State of Florida to Mobile County, Alabama, 56 slot machines of the value of $8,400.00, knowing the same to have been stolen. (R.2-3).

3. Transporting and causing to be transported in interstate commerce from Flomaton in the State of Florida to Mobile County, Alabama, 28 slot machines of the value of $4,200.00, knowing the same to have been stolen. (R.3).

4. Transporting and causing to be transported in interstate commerce from Flomaton in the State of Florida to Escambia County, Alabama 5 slot machines of the value of $1,000.00, knowing the same to have been stolen. (R.4).

5. Conspiring to violate the provisions of Sections 415, Title 18 of the United States Code, by transporting and causing to be transported in interstate commerce stolen property of the value of more than $5,000.00. (R.4-6).

A demurrer, (R.7), which the Court overruled, (R10), was filed to each count insisting, among other things, that no violation of law was charged since the counts did not negative ownership of the property in the defendants and because the value of the property as alleged in the third and fourth counts was less than $5,000.00.

II.

The facts of the case show that Alabama Law Enforcement Officers, (R.63-66), under authority of a search warrant seized approximately 100 used slot machines, (R.55), from the premises of Fred Reynolds at Flomaton, Alabama, which is on the Alabama-Florida state line. These machines which were not in good working condition, (R.51), were turned over to the county sheriff who stored them in the courthouse at Brewton, Alabama. A few days later, the circuit solicitor filed a petition to condemn the machines and gave notice to Fred Reynolds. (R.29) The room in which the slot machines were stored was broken into and the machines removed. (R.45) Some of them were later sold to a company in New Orleans and also to persons in Jackson, Mississippi.These machines were identified as being removed from the barn of John Percy Reynolds in Flomaton, State of Florida. The court over the timely objection of the defendants permitted the purchasers, who were witnesses at the trial, to tes-

tify how much they had paid John Percy Reynolds for the machines in order to establish their fair market value, a requisite item of proof under the provisions of the statute, Section 415, Title 18, United States Code. (R.47,50,54). Defendants objected that the fair market value had been and was fixed by Maximum Price Regulation 429, as promulgated by the Price Administrator under authority of the Emergency Price Control Act of 1942, as amended. (R.44-47-50-51-52). However, the court ruled that the Office of Price Administration had nothing to do with the case, (R.44), and denied the admission of the regulation in evidence either for the purpose of fixing the value, or as a factor to be considered by the jury in determining the value of the alleged stolen property. (R.89). The Circuit Court of Appeals followed this view. (R.97).

On an appeal to the United States Circuit Court of Appeals for the Fifth Circuit, the judgment of the District Court was affirmed and an opinion rendered December 21, 1945. (R.95). A petition to set aside said judgment and to grant appellants a rehearing, (R.99), was denied on January 16, 1946, without an opinion. (R.104).

JURISDICTION

The judgment of the Circuit Court of Appeals was entered on December 21, 1945. A copy of said opinion is contained in the Transcript of Record. (R.95).

Jurisdiction to review the judgment in question is invoked under Section 347 (a) of Title 28 of the United States Code and Sections 415 and 418 (a) of Title 18 of the United States Code; also Maximum

Price Regulation No. 429, (R.73), found in 8 Fed. Register, page 9877, and Amendment No. 1 thereto, (R.86), 8 Fed. Register, page 13742.

STATUTE INVOLVED:

The pertinent provisions of Maximum Price Regulation 429 and Amendment No. 1 thereto are as follows:

Part 1366 - Used Consumer Durable Goods

(MPR 429.)

Certain Used Consumer Durable Goods.

In the judgment of the Price Administrator, the maximum prices established by this Maximum Price Regulation No. 429 are and will be generally fair and equitable and will effectuate the purpose of the Emergency Price Control Act of 1942, as amended, and executive order number 9250. A statement of considerations involved in the issuance of this regulation has been issued simultaneously herewith and has been filed with the division of the Federal Register.

1366.1. Maximum prices for certain types of used consumer durable goods. Under the authority vested in the Price Administrator Executive Order No. 9250, Maximum Price Regulation No. 429 (Ceiling Prices for Certain Types of Used Consumer Durable Goods), which is annexed hereto and made a part hereof is hereby issued.

Authority: 1366.1 issued under Pub. Laws 421 and 727 77th Cong.: E. O. 9250, 7 F. R. 7871.

Maximum Price Regulation No. 429—Ceiling Prices for Certain Types of Used Consumer Durable Goods.

Contents

Section 8. How to find the ceiling price for each class. The ceiling price for the used article must be not more than:

Class I. 3/4 (75¢) of new.

Class II. 1/3 (33 1/3) of new.

****

No sales, attempts to sell, offers to sell or deliveries shall be made at prices higher than the ceiling price. Of course, sales may be made at lower than the ceiling price. ****

Sec. 12. Evasion, licensing and enforcement.—(a) Evasion.

You must not evade any of the provisions of this regulation by any scheme or device, or by any practice which has the effect of getting a higher-than-ceiling price. Specifically, you cannot offer to sell used goods covered by this regulation only on condition that the customer agree to pay for reconditioning, repairing, or rebuilding to be performed by you before or after he buys the merchandise or only on condition that the customer buys goods which he does not wish to buy. If the customer buys an article from you, and asks you to rebuild it or recondition it, the total amount which you receive on account of the sale of the goods and on account of the reconditions or rebuilding cannot exceed the ceiling price of the goods if you offered the goods for sale as Class I goods.

You may not use the published list price as the price of the new article under section 6, if that published list

price was generally not observed by sellers of new goods. Section 6 required you to find the actual selling price of the new article.

(b) ****

(c) Enforcement. On and after September 1, 1943, you are subject to the criminal penalties, civil enforcement actions, license suspension proceedings and suits for treble damages provided for by the Emergency Price Control Act of 1942, as amended, if you violate any provision of this regulation.

Sec. 13. ****

(MPR 429. Amdt. 1.)

****

Section 4 (a) (1) is amended to read as follows:

(1) Sales by a householder who is selling goods which he originally bought for use. Sales by dealers or auctioneers whether for their own account, or for the account of a householder or anyone else, and sales of used goods out of residence as a regular business are covered.

Section 8 is amended to read as follows:

Sec. 8. How to find the ceiling price for each class. The ceiling price for the used article must be no more than:

Class I. 3/4 (75%) of new.

Class II. (33 1/3) of new.

****

QUESTIONS PRESENTED:

1. Whether or not the indictment should have alleged ownership or the possession of the property alleged to have been stolen and transported in interstate commerce in some person other than defendants in order to negative any right or interest of the defendants therein.

2. Whether or not Maximum Price Regulation No. 429, as amended, should have been allowed in evidence to establish value or to be considered by the jury as a factor in establishing value of the property alleged to have been stolen and transported in interstate commerce.

REASONS RELIED ON FOR THE ALLOWANCE OF THE WRIT:

1. None of the counts of the indictment in this case allege ownership of the property alleged to have been stolen and transported in interstate commerce, or the name of the person entitled to its possession. From aught appearing under the allegations of the indictment, the property belonged to the petitioners and they were entitled to its possession. Had the property belonged to petitioners and been stolen from them and then recovered by them from the thief, the petitioners, by transporting the property after its recovery, would certainly not be violating the law. Yet, they would be transporting stolen property. The indictment, therefore, should have alleged ownership in someone other than the petitioners. In its present form, the facts alleged do not constitute a crime. Pleadings are always construed more strongly against the pleader especially

in charging a criminal offense. The indictment should set forth fully, directly and expressly and without any uncertainty or ambiguity all of the elements necessary to constitute the offense intended to be punished. Since the indictment did not aver ownership of the property alleged to have been stolen and transported in interstate commerce, the Petitioners demurrer on this ground should have been sustained. The court erred in not doing this and for this reason the writ should be granted as prayed for.

2. A further reason of equal importance for granting the writ is to rectify the interpretation placed by the District Court and the Circuit Court of Appeals on price regulations promulgated by the Office of Price Administration under authority of the Emergency Price Control Act. In this case the court ruled that Maximum Price Regulation 429, (R.73), was not applicable and should not be considered in determining the value of the property alleged to have been stolen and transported in interstate commerce. (R. 44, 89, 90,91). The purpose of fixing prices by law during the recent national emergency was to state the reasonable worth or value of an article or service and to thereby combat and prevent inflation. The court should have permitted the jury to consider Maximum Price Regulation 429:

First, because it fixed by law the price of the slot machines in question and had this price regulation been applied, the value of the slot machines would have been less than the jurisdictional amount set forth in the statute. Section 415 of Title 18 of the United States Code.

Second, the Maximum Price Regulation 429 was, in any event, evidence of the value of the slot machines and even if the court decided that the regulation was not conclusive, the jury should have been instructed that it could consider the prices fixed by the price regulation as evidence of the reasonable market value of the property alleged to have been stolen.

By ruling out the price regulation entirely as irrelevant and immaterial, the court committed error which should be corrected by a reversal of its judgment.

The questions involved in this case and presented by this petition are substantial and petitioners respectfully submit are grounds upon which this honorable court should grant the writ of certiorari as prayed for.

Wherefore your petitioners respectfully pray that a writ of certiorari may be issued out of and under the seal of this court directed to the United States Circuit Court of Appeals for the Fifth Circuit commanding the said court to certify and send to this court, on a day certain to be therein designated, a full and complete transcript of the record and all proceedings of the said Circuit Court of Appeals in the same case entitled Fred Reynolds and John Percy Reynolds, Appellants, versus United States of America, Appellees, No. 11,387 to the end that the said case may be reviewed and determined by this court as provided by Section 347 (a), Title 28 of the United States Code, or that your Petitioners may have such other or further relief or remedy in the premises as this court may deem appropriate and in conformity with said provision of the United States Code and that the said judgment of said Circuit Court

of Appeals in the said case and every part thereof may be reversed by this Honorable Court.

Sam M. Johnston, Counsel
for petitioners.

Of Counsel:

C. L. Hybart

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CITATIONS

Cases:

In the Supreme Court of the United States

OCTOBER TERM, 1945

No. 852

FRED REYNOLDS AND JOHN PERCY REYNOLDS, PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINION BELOW

The opinion of the circuit court of appeals (R. 94) has not yet been reported.

JURISDICTION

The judgment of the circuit court of appeals was entered December 21, 1945 (R. 96), and a petition for rehearing was denied January 16, 1946 (R. 102). The petition for a writ of certiorari was filed February 15, 1946. The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code, as amended by the Act of Febru-

ary 13, 1925. See also Rules XI and XIII of the Criminal Appeals Rules promulgated by this Court May 7, 1934.

QUESTIONS PRESENTED

1. Whether an indictment under the National Stolen Property Act must specifically negative defendant's ownership or right to possession of the property alleged to have been transported in interstate commerce in violation of the Act.

2. Whether the trial court committed error in excluding O. P. A. Maximum Price Regulation 429, as amended, from evidence as not relevant to a determination for jurisdictional purposes of the value of the slot machines alleged to have been transported.

STATUTE INVOLVED

The National Stolen Property Act of May 22, 1934, c. 333, 48 Stat. 794–795, as amended by the Act of August 3, 1939, c. 413, 53 Stat. 1178–1179, provides in pertinent part:

> SEC. 3 (18 U. S. C. 415). Whoever shall transport or cause to be transported in interstate or foreign commerce any goods, wares, or merchandise, securities, or money, of the value of $5,000 or more theretofore stolen, feloniously converted, or taken feloniously by fraud or with intent to steal or purloin, knowing the same to have been so stolen, feloniously converted, or taken, * * * shall be punished by a fine of not

more than $10,000 or by imprisonment for not more than ten years, or both: * * *.

SEC. 5 (18 U. S. C. 417). In the event that a defendant is charged in the same indictment with two or more violations of this Act, then the aggregate value of all goods, wares, and merchandise, securities, and money referred to in such indictment shall constitute the value thereof for the purposes of sections 3 and 4 hereof, * * *.

STATEMENT

An indictment in five counts was returned against petitioners charging them with transporting and causing the transportation of stolen slot machines in interstate commerce, knowing the machines to have been stolen, and with conspiracy (R. 1–6). Petitioners were found guilty on all counts and each was sentenced generally to pay a fine of $1,000 and to imprisonment for one year and one day (R. 11–14). On appeal to the Circuit Court of Appeals for the Fifth Circuit, the convictions were affirmed (R. 96).

The evidence may be summarized as follows:

On October 4, 1943, Alabama law enforcement officers under authority of a search warrant seized approximately one hundred slot machines from the premises of petitioner Fred Reynolds at Flomaton, Alabama (R. 63–64). The machines were turned over to the county sheriff, who stored them in a locked and barred room in the courthouse at Brewton, Alabama (R. 64). Pursuant

to Alabama statutes, the circuit solicitor a few days later filed a petition for the condemnation of these machines (R. 29–36), and gave notice to Fred Reynolds (R. 36, 45). Shortly after service of notice of this petition for condemnation, the room in which the slot machines were locked was broken into and the machines stolen (R. 45–46).

About February 1, 1944, one George Gray, a slot machine operator from Mobile, Alabama, purchased fifty-five of these machines for $3,640 (R. 42, 46–47). The machines were at that time stored at the house of petitioner John Percy Reynolds in Flomaton, Florida, to whom the money was paid. Fred Reynolds took Gray to that house and both petitioners assisted in loading the machines on to Gray's truck. About one week later these fifty-five machines were sold in New Orleans, Louisiana, for $7,000. (R. 48–49.) On a later occasion, in March, Gray returned to Flomaton, Florida, and purchased twenty-eight more of the machines from petitioners, which were later resold in Mobile for $3,680 (R. 43, 50).

In February 1944, Fred Reynolds made a trip to Jackson, Mississippi, to interest one Grady Allen in the purchase of slot machines. Late in March 1944, following instructions of John Percy Reynolds, Allen drove to Flomaton, Florida, where he met petitioners and purchased five of the machines for $1,000. He was returning to Mississippi with the machines when apprehended in Alabama. (R. 53–54.)

Others of the stolen machines were found on the premises of John Percy Reynolds in Flomaton, Florida, when these premises were searched at the time of the apprehension of petitioners (R. 57).

When the machines were originally impounded by the Sheriff of Escambia County, Alabama, each was identifiable by a serial number stamped in the metal parts of the machine, and a record was made of these numbers (R. 64). When ultimately recovered, the numbers were found to have been filed off. However, the machines were identified through laboratory treatment which brought out the numbers on the metal. (See R. 62, 64, 67–68.) The evidence of identification of the machines, the transportation, and sales described above, is not disputed.

ARGUMENT

1. Petitioners urge (Pet. 9–10; Br. 7–10) that an indictment under the National Stolen Property Act must negative ownership or right to possession in the defendant to state an offense, and they cite federal and state decisions involving the crimes of larceny or burglary in support of their contention. These authorities are inapplicable to an indictment under the Act. The gist of the offense here is not larceny but rather interstate transportation. Under comparable federal statutes, it has been uniformly held that it is unnecessary to lay ownership in the indictment where the

offense charged is one affecting interstate commerce. Thus, under 18 U. S. C. 409, which makes it an offense to commit larceny of any freight or express shipment in interstate commerce, or to receive or possess any goods knowing them to have been stolen from any such shipment, the federal courts have consistently denied the necessity as against persons charged with having possession of or receiving such goods to lay ownership in the indictment. *Hadsell* v. *United States,* 8 F. 2d 989 (C. C. A. 9), certiorari denied, 270 U. S. 656; *Falgout* v. *United States,* 279 Fed. 513 (C. C. A. 5); *Cohen* v. *United States,* 277 Fed. 771 (C. C. A. 7), certiorari denied, 257 U. S. 657; *Grandi* v. *United States,* 262 Fed. 123 (C. C. A. 6). The decisions are the same with respect to persons indicted for possessing property stolen from the United States mails. *Johnston* v. *United States,* 22 F. 2d 1 (C. C. A. 9), certiorari denied, 276 U. S. 637; *Poffenbarger* v. *United States,* 20 F. 2d 42 (C. C. A. 8); *Collins* v. *United States,* 20 F. 2d 574 (C. C. A. 8); *United States* v. *Falkenhainer,* 21 Fed. 624 (C. C. E. D. Mo.); *United States* v. *Trosper,* 127 Fed. 476 (S. D. Cal.). Under the National Motor Vehicle Theft Act (18 U. S. C. 408), which in construction is almost identical with the National Stolen Property Act and out of which the latter grew, the courts have similarly not required indictments to set forth any details of the theft, including identification of ownership. *Fos-*

ter v. *United States,* 4 F. 2d 107 (C. C. A. 9); *Whitaker* v. *United States,* 5 F. 2d 546 (C. C. A. 9), certiorari denied, 269 U. S. 569; *Jones* v. *United States,* 19 F. 2d 316 (C. C. A. 8); *Wendell* v. *United States,* 34 F. 2d 92 (C. C. A. 4).

It is an established principle of federal criminal procedure that where a statute fully, directly, and expressly, without any uncertainty or ambiguity, sets forth all the elements of an offense, an indictment is sufficient which charges the offense substantially in the language of the statute. *Peters* v. *United States,* 94 Fed. 127 (C. C. A. 9), certiorari denied, 176 U. S. 684; *Dierkes* v. *United States,* 274 Fed. 75 (C. C. A. 6), certiorari denied, 257 U. S. 646; *Bloch* v. *United States,* 261 Fed. 321 (C. C. A. 5), certiorari denied, 253 U. S. 484; *Knoll* v. *United States,* 26 App. D. C. 457, certiorari denied, 201 U. S. 643; *United States* v. *Henderson,* 121 F. 2d 75 (App. D. C.); *Dunne* v. *United States,* 138 F. 2d 137 (C. C. A. 8), certiorari denied, 320 U. S. 790. The only exception to this rule is where the statute is so general in its language that an indictment in its terms would not sufficiently apprise a defendant of the charges against him. But such is not the case here; the indictment contained the essential averments of the elements of the offense as defined by statute, and it gave petitioners sufficient information to meet the charge. *Hadsell* v. *United States, supra; Cohen* v. *United States, supra; Pines* v. *United*

States, 123 F. 2d 825 (C. C. A. 8). If, as petitioners argue, the indictment left open the possibility that they owned the slot machines in question, that was a fact of which they would have the best knowledge and could have been offered by way of defense. *Taylor* v. *United States,* 142 F. 2d 808 (C. C. A. 9), certiorari denied, 323 U. S. 723. Furthermore, had petitioners really needed information as to ownership, it could have been obtained by a bill of particulars which they were in effect invited to request by the trial court in its order overruling their demurrers (R. 10–11), but which they, for obvious reasons, found unnecessary.

2. Petitioners assert (Pet. 10–11; Br. 11–16) that O. P. A. Maximum Price Regulation No. 429 (ceiling prices for certain types of used consumer durable goods) was applicable to determine the value of the slot machines in question; that slot machines are included within subsection 1 (o) of that regulation covering various types of coin operated machines; and that therefore the trial court erred in refusing to admit the regulation in evidence (see R. 89).[1] Petitioners cite authorities to show the applicability of O. P. A. price regulations to the determination of price in sales by public agencies as well as by private individuals. Those authorities, however, have no bear-

[1] Maximum Price Regulation No. 429, as amended, is set forth in full at pages 73–89 of the record.

ing upon the question in this case whether the particular O. P. A. regulation was relevant to a determination of the value—not price—of particular commodities.

In the first place, subsection 1 (o) of Maximum Price Regulation No. 429 does not cover slot machines. The specific types of coin operated machines mentioned in the subsection—cigarette, candy, beverage, juke box and pin ball machines—are generically distinct from slot machines. The phrase "other amusement machines" was obviously intended only to cover machines of similar character or purpose, i. e., those whose primary function is to vend some commodity or for amusement. Slot machines, however, are solely intended for gambling purposes; they vend nothing, and amusement *per se* is only an incidental purpose. If the regulation had been intended to cover devices the sole purpose of which was for gambling, it could easily have been more artfully drafted to this end by employing accepted phraseology such as "gaming devices." The omission makes it clear that there was no intention to cover such devices, and this is the more clear in view of the fact that they are outlawed in most states.

Secondly, the inapplicability of the O. P. A. regulation to a determination of the value of the slot machines is confirmed by the terms of the regulation as a whole. It does not, as petitioners repeatedly assert (see Pet. 12, 14), *per se* fix prices for

the commodities covered. It merely establishes criteria by which a particular seller may arrive at his ceiling price.[2] By none of the criteria could a price have been arrived at for the slot machines here, because of the absence of a legal or open market for the machines. The only rule under the regulation by which it might be urged a price could have been ascertained is rule 6, under which the seller goes to the Office of Price Administration for information as to how to determine a price (see note 2, p. 11, *infra*). Obviously, it would be ridiculous to assume that the Office of Price Administration would assist a seller in arriving at a price for traffic in a commodity which was outlawed in the community.

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[2] The Regulation provides, in pertinent part (R. 80–81):

"SEC. 6. How to find the price of the new article.

You find the price of the new article by using these rules in the order in which they appear:

(a) Rule 1. Find the retail selling price of the same article, new, for sale in your own stock.

(b) Rule 2. If you do not have the same article, new, in stock, find the retail selling price of a similar article, new, in your own stock. A used article is "similar" to a new article if the used article has the same uses and when new would give fairly equivalent service. In addition, the used article, when new, must have sold for approximately the same price as the similar new article now sells for.

(c) Rule 3. If you do not have a similar article, new, in stock, find the retail selling price of the same article, new, in the same shopping area. (The shopping area is the area in which persons in your community shop for new goods of the kind you are pricing.)

(d) Rule 4. If the same article, new is not for sale in the same shopping area, find the retail selling price of a similar

The regulation as such, therefore, would have availed petitioners nothing in establishing a ceiling price for the slot machines. And there was no offer by petitioners of any supporting evidence to demonstrate the applicability of the regulation to a determination of value as such. In this respect, petitioners' argument is further defective, since the value of a commodity is not necessarily its ceiling price, even if the latter is ascertainable. O. P. A. ceiling prices govern only sales, and the value of commodities for other purposes is determined by other direct and relevant standards. *Tierney* v. *General Exchange Ins. Corp.*, 60 F. Supp. 331 (N. D. Texas); *Fugate* v. *State*, 158 Pac. 2d 177 (Cr. Ct. of App. Okla.). All of the testimony in the instant case shows that petitioners and other parties with whom they dealt set a value on the slot machines far in excess of the minimum value fixed in the National Stolen Property Act for jurisdictional purposes.

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article, new, for sale in the same shopping area. A used article is "similar" to a new article if the used article has the same use and when new would give fairly equivalent service. In addition the used article, when new, must have sold for approximately the same price as the similar article now sells for.

(e) Rule 5. If the same or similar article is not being sold in your community, find the retail selling price when this article was last sold in your community.

(f) Rule 6. If you cannot find the retail selling price under any of these Rules above, apply to the appropriate Office of Price Administration District Office, for information on how to determine your price."

CONCLUSION

The decision below is correct, and there is involved no question of importance or conflict of decisions. We therefore respectfully submit that the petition for a writ of certiorari should be denied.

J. HOWARD MCGRATH,
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MARCH 1946.

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